



FREE TO
MEMBERS

NOTES ON THE LAW
RELATING TO
EXPERIMENTS ON ANIMALS
IN GREAT BRITAIN

(The Act of 1876)

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THE RESEARCH DEFENCE SOCIETY

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P R E F A C E

Believing that some licence holders may not be well informed about the operation of the Act of 1876, the Research Defence Society has prepared these Notes on the Law Relating to Experiments on Animals in Great Britain. It is hoped that they will simplify the task of obtaining licences and certificates for animal experiments, and will obviate delays which are likely to occur when incorrect applications are made to the Home Office.

The Research Defence Society is pleased at all times to advise and, if possible, give assistance to licence-holders applying for certificates, and particularly if the licensee is informed by the Home Office that his certificates are to be submitted to the Advisory Committee.

J. DOUGLAS ROBERTSON,

Hon. Secretary.

RESEARCH DEFENCE SOCIETY,

11 Chandos Street,

London, W.1.

PART I

THE ACT OF 1876

SCOPE OF THE ACT

Act 39 & 40 Vict., Ch. 77, usually referred to as **The Cruelty to Animals Act (1876)**, regulates the use of animals for experiment. It is administered in England, Scotland and Wales by the Home Secretary. Identical or similar legislation is in force in N. Ireland, Eire and Isle of Man, and in certain other places. Licences granted by the Home Secretary and those granted elsewhere are not interchangeable.

Relevant extracts from the Act are printed at the back of every licence. Experiments carried out under the Act of 1876 are expressly excluded from the operation of the Protection of Animals Act, 1910.

GENERAL PRINCIPLES

“ The Cruelty to Animals Act, 1876, imposes restrictions which apply to any experiment calculated to inflict pain upon a living vertebrate animal ” (see Return of Experiments, issued by the Home Office as a White Paper dated 26th July, 1949). Except subject to these restrictions such experiments are prohibited by the Act. The Cruelty to Animals Act, 1876, was based on the recommendations of a Royal Commission which was appointed in 1875.

PAIN

A further Royal Commission was appointed in 1906 and sat for six years. It took the view that even the pursuit of knowledge must recognise a limit to the pain which shall be inflicted on an experimental animal, but that it would be inconsistent and unreasonable to impose a greater restriction upon the infliction of pain for the advancement of knowledge than public opinion sanctions in the pursuit of sport, in carrying out such operations as castration and spaying, or in the destruction of rabbits and of rats and other vermin by traps and painful poisons (see Final Report of the Royal Commission on Vivisection published 1912, p. 64). The Home Secretary gives effect to this view by imposing a **pain condition** (see Condition No. 3¹ of the licence) to be observed in all experiments on the conscious animal. This condition requires the licensee to kill an animal which is suffering severe **or** enduring pain, provided the main result of the experiment has been attained ; but if the pain is both severe **and** enduring, then the animal must in all cases be painlessly killed forthwith.

INSPECTION

The conditions imposed upon licensees preclude the performance of experiments without the knowledge of the Home Office Inspectors, and in practice the great majority of visits which the Inspectors make to Laboratories are without notice.

¹ Refers throughout to the new style of licence, introduced in 1949. The numbering on old style licences varies.

PROSECUTION

Section 21 of the Act states that " A prosecution under this Act against a licensed person shall not be instituted except with the assent in writing of the Secretary of State." It is doubtful if the Home Secretary has ever given this permission. The effect of this Section is to protect the licensee from irresponsible or malicious prosecutions.

REGISTRATION OF PREMISES

The places where experiments under the Act are to be carried out are normally registered by the Home Secretary. There is no application form for this: the person or body having authority over the premises—for example, the vice-chancellor of a university, a senior officer in a government department or research council, the chairman or secretary of a board of governors, management committee or firm, etc.—should write to the Under-Secretary of State, Home Office, Whitehall, London, S.W.1, requesting that the place be registered under the Cruelty to Animals Act, 1876. To make this request before the place is ready for use is premature, but if advice is needed during the planning or construction, an informal approach may be made to the Home Office Inspector.

LICENCE

A licence to carry out experiments is granted by the Home Secretary. When the licence is used by itself, every experiment so made is subject to certain restrictions, among which are the following:—

- (i) The animal must be under the influence of an anæsthetic throughout the experiment. (See footnote ².)
- (ii) The animal must be killed at the end of the experiment while still under the anæsthetic. (See footnote ³.)
- (iii) The experiment must be for the advancement by new discovery of physiological knowledge or knowledge which will be useful for saving or prolonging life or alleviating suffering.

CERTIFICATES

Certificates are given by the signatories, that is, by a president of one of a number of learned bodies, and a professor of a main branch of medical science (see Section 11). The main purpose of certificates generally is to release the licensee from one of the above restrictions. Thus Certificate A releases the licensee from restriction (i) above; Certificate B from (ii) and Certificate C from (iii).

² The Act does not define or qualify the term " anæsthetic " beyond that it should be " of sufficient power to prevent the animal from feeling pain." A local anæsthetic in appropriate cases can, therefore, satisfy this requirement as well as a general.

³ Section 3 restriction (4) states: " The animal must, if the pain is likely to continue after the effect of the anæsthetic has ceased, or if any serious injury has been inflicted on the animal, be killed before it recovers from the influence of the anæsthetic which has been administered." Recovery can in practice be but rarely permissible in experiments under licence alone.

On completion, certificates are to be sent to the Under-Secretary of State, Home Office. The Home Secretary then has the power to allow, disallow or suspend certificates—and may do so wholly or in part—but he has no power to grant them, nor can he extend their scope. In order to afford him the necessary time to consider a certificate the Act gives him a minimum of seven days to consider the matter, but in practice it is usually longer than this before the licensee hears whether or not his certificate has been disallowed (Section 8). The Home Secretary invariably requires that “no experiment under any certificate held by the licensee may be performed until he has been notified that the certificate has not been disallowed. . . .” (Condition No. 2 attached to all licences.)

There is no limit to the number of certificates which a licensee may hold.

ADVISORY COMMITTEE

In a small minority of cases, when the Home Secretary is in doubt as to whether or not he should grant a licence or allow a certificate, he may refer the matter to an Advisory Committee. This Committee was set up on the recommendation of the Royal Commission (1906-12). The members are selected from a panel of names submitted by the Royal Society, the Royal College of Physicians and the Royal College of Surgeons, three members from each body: and a judge of the High Court occupies the Chair.

LEGAL REQUIREMENTS

Licences and certificates are legal documents. **They are personal to the holder, and delegation of authority under them is expressly forbidden, whether or not in his presence.** The Home Office has given the following general guidance to licensees in the matter of interpreting the term **delegation** :—

- (1) There is no delegation where two or more persons, each holding separate authority under the Act to perform a particular experiment, carry out conjointly the operative or other procedures involved.
- (2) Where necessary a licensee may permit anyone to administer anæsthetics to an animal subject to his experiment.
- (3) He may allow another person to carry out mechanical duties. Thus a licensee may, for instance, employ an assistant to hold an animal whilst he gives an injection or to administer a diet which he has prescribed ; or, whilst he carries out operative procedures, to control hæmorrhage, hold retractors or to undertake equivalent subaltern duties.
- (4) Subject to the above, the prohibition on delegation is absolute and a licensee may not allow another person, licensed or unlicensed, to take part in his experiments, even under his supervision or when he himself is present.

The Home Office looks to the licensee to give strict observance to the relevant extracts of the Act which accompany the licence ; to the

conditions attached thereto ; and to the wording of the certificates, which admits of no latitude. Infringement may lead, and in some cases has led, to revocation of the licence. Action may also be taken against the laboratory authority which is responsible for the registered place in which the experiments are carried out. At the time of registration it is stated in a letter that " the Secretary of State relies upon the co-operation of the laboratory authorities in requiring the strict observance within the registered premises of all the provisions of the Act " and if he subsequently considers that his reliance has been misplaced, he may reasonably be expected to take appropriate action, up to and including cancellation of registration. From neither of these decisions is there any appeal.

TEACHING

The Royal Commission of 1906-1912 supported the absolute prohibition of experiments on conscious animals in illustration of lectures. (Section 3, Proviso (1).) There can be no objection, however, to allowing suitable persons to witness experiments performed in accordance with the provisions of the Act, whether under licence alone, or under licence and any certificate.

It is stressed that there is no relaxation of the ban on delegation in experiments under Certificate C.

CINEMATOGRAPH FILMS

Section 6 of the Act says: "Any exhibition to the general public, whether admitted on payment of money or gratuitously, of experiments on living animals calculated to give pain shall be illegal." There is nothing to prevent the making of a cinematographic record of an experiment performed in accordance with the requirements of the Act, whether under licence alone, or licence and Certificate C, or licence and any other Certificates ; nor in the exhibition of such a record to suitable persons. Condition No. 9 may be held to apply to such a record, and the attention of the Home Office should be drawn to its existence. The submission of an animal to an experiment calculated to cause pain, solely for the purpose of making a film, is, however, prohibited by the Act.

PITHING AND DECEREBRATION

In considering the subject of pithing, by which is meant the destruction of cerebral hemispheres and basal ganglia, the Royal Commission recommended that " the operation of pithing a warm-blooded animal should be conducted only by a licensed person, and that the operation itself should be performed under an adequate anæsthetic " (Report of Royal Commission, p. 53) and should, of course, count as an experiment under licence (or licence and Certificate C). By implication, the pithing of frogs is not held to require an anæsthetic nor need it be done by a licence holder (it is probably as quick and humane a way of killing frogs as any).

When an animal has undergone destruction of its cerebral hemispheres and basal ganglia, or some equivalent operation, it may be regarded for the purpose of the Act as dead, and may consequently be

handled by non-licensees. Any lesser operation was considered by the Royal Commission to be insufficient to amount either to death or to general anæsthesia ; the decerebrate animal, in which the basal ganglia are intact, may not be handled by non-licensees (e.g. students), nor may it be allowed to recover from the anæsthetic which has been administered.

CURARE

The curare condition (Condition No. 7 of the licence) states that " no experiment in which curare is used shall be performed without the special permission of the Secretary of State ; and forty-eight hours' notice of the performance of every experiment or series of similar experiments so permitted shall be given to the Inspector of the District. This condition shall not apply to experiments on a decerebrated animal in which the cerebral hemispheres and basal ganglia have been destroyed " (which, of course, may be regarded as dead).

Curare and its derivatives are affected by this condition. It is permissible, in order to save time and correspondence, in one letter (*a*) to apply for the special permission of the Secretary of State ; (*b*) subject to this being granted, to give the required notice of the intention to perform an experiment in which curare is used, or a series of similar experiments.

PREGNANCY TESTS

It is questionable whether pregnancy tests using toads, mice, rats or rabbits come under the Act at all, the crux being whether they are " calculated to cause pain." Only a Court of Law can determine such questions and in the absence of a decision in a particular case the licensee must decide the question for himself. Generally speaking, however, it would appear quite unnecessary for pregnancy tests on cold-blooded animals to require a licence, and the same probably applies to the Aschheim-Zondek test. With regard to the Friedman test on rabbits in its various forms, details of technique may well lead different workers to opposite conclusions.

PART II

ON FILLING IN FORMS

In recent years increasing numbers of applications for licences and certificates have been incorrectly presented, resulting in delay in their granting and approval, and much avoidable trouble for the applicant, the signatories and the Home Office.

The following notes are designed to obviate this: **they are complementary to, and should be read in conjunction with, those printed on the forms of application for licence and the various certificates.** If any doubt exists, the Home Office Inspector may be consulted.

Whenever a new certificate is submitted, or the location of the licence is to be amended, **the licence must be forwarded to the Home Office.**

1. APPLICATION FOR LICENCE

“ Places at which it is proposed to perform the experiments ” (p. 2). These must be registered places as a rule ; but in certain cases a licence may be made available “ at such other places, not being registered places, as may be necessary (in experiments under Certificate) provided the Inspector be given sufficient notice of the performance of any such experiments to enable him to be present if he so desires.” If, later, additional or alternative places are required, the licence must be sent to Home Office for endorsement before it is valid at the new places.

“ Nature of proposed experiments ” (p. 3). The licence covers only experiments during the whole of which the animal is under an anæsthetic, from which it does not recover.⁴ In practice, the licence, when granted, covers experiments on any animals (other than horses, asses or mules) which are so conducted ; for this reason, a broad description only is required here.

2. CERTIFICATE “ A ”

Certificate A deals with experiments where an anæsthetic is impracticable. It covers minor manipulations and procedures ; under “ description of experiments to be performed ” these should be specified in terms such as “ injection,” “ inoculation,” “ withdrawal of body fluids,” “ administration of substances by enteral or parenteral routes,” “ exposure to rays,⁵ to infection, to variations of temperature⁵ or atmospheric pressure,”⁵ “ feeding experiments, the animal being allowed to satisfy hunger and thirst,” or any operative procedure not more severe than simple inoculation or superficial venesection (condition No. 4 of licence, known as the **limitation condition**). As such procedures are common to a wide range of investigations the object may be stated in broad terms. If an anæsthetic is administered for any purpose whatsoever (e.g. to immobilise the animal, even though the operative procedure is within the limitation condition) then the experiment cannot properly be carried out under Certificate A.

⁴ See footnote 3 on page 4.

⁵ The circumstances necessitating these procedures should be explained.

Under "animals to be used," it is seldom necessary to designate particular species. Unless it is intended to use dogs or cats (which require Certificate E in addition), or horses, asses or mules (Certificate F), these species must be excluded on the certificate: in this case "vertebrates except dogs, cats, horses, asses and mules" is generally acceptable.

3. CERTIFICATE B.

Certificate B deals with experiments under anæsthesia from which the animal is to be allowed to recover. It is appropriate to minor procedures which are carried out under anæsthesia, such as intracerebral inoculation, biopsy and the like; but its main purpose is to cover surgical operations of a more or less severe nature. These must be accurately indicated under "description of experiments to be performed" and it is important that the words shall not bear a meaning wider than that intended (e.g. where only biopsy is intended this should be stated). The species or class of animal must be named; dogs and cats require in addition Certificate EE, and horses, asses and mules Certificate F, but if these animals are not to be used, they must be excluded. When describing the object, the specificity should be proportional to the severity of the experiment.

4. CERTIFICATE C

This covers experiments not for the purpose stated in (iii) above (p. 4), but to illustrate "lectures in medical schools, hospitals or colleges, or elsewhere" (Section 3, proviso 1)). The conditions as to anæsthesia are the same as under licence alone, and no experiment or demonstration done under Certificate C may be carried out on the conscious animal. Delegation is not permitted (see p. —, "Legal Requirements"). A description of experiments in very broad terms suffices—e.g. "experiments to demonstrate the fundamental facts of physiology and pharmacology."

Certificate C also applies to experiments carried out before learned societies. It is necessary to state on the Certificate the place where the experiments are to be performed. In the case of demonstrations before learned societies, this may well differ from the place of work of the licensee (at which his licence is available) and to save having to obtain a fresh Certificate C whenever such an occasion arises, the following wording (in black type) may appear on the Certificate:—

(a) Places at which the experiments are to be performed.

" (i) (State here the place at which teaching experiments are normally carried out; the licence must also be available there.)

" (ii) **Meetings of learned societies held in premises registered under the above Act.**"

(b) Description and object of experiments to be performed.

Demonstrations :

" (i) **To students of science or medicine at the place first named above, of the fundamental facts of physiology and/or pharmacology.**

“ (ii) To members of learned societies, of newly discovered physiological facts or facts which will be useful to them for saving or prolonging life or alleviating suffering.”

(c) Persons before whom the proposed experiments are to be performed.

“ Students of science and medicine ; members of learned societies.”

The Home Office will require that on each occasion of the licensee's intention to carry out experiments under (ii) above, notice be given, and this will be stated in Condition 1 of the licence.

5. CERTIFICATE D

This certificate has for many years been regarded as obsolete. It was introduced to cover experiments the object of which was not as in (iii) above (p. 4), but was the testing of former discoveries alleged to have been made with that object.

6. CERTIFICATE E, EE AND F

The purpose of these certificates is sufficiently explained in the official notes printed at the head of each certificate form. It is essential that the “ description of experiments to be performed ” be in the same terms as in the Certificate A or B with which E, EE or F are to be combined. E accompanies A ; EE accompanies B ; F may accompany either, or both, but in the latter case it is better to submit two F's, one to go with A and one with B.

Forms of application for licence and certificates are obtainable from H.M. Stationery Office at:—

York House, Kingsway, London, W.C.2.
13a Castle Street, Edinburgh, 2.
39 King Street, Manchester, 2.
2 Edmund Street, Birmingham, 3.
1 St. Andrew's Crescent, Cardiff.
Tower Lane, Bristol, 1.
80 Chichester Street, Belfast.

Or through any Bookseller. They cost, respectively, 2d. and 1d. each.

7. UNDERTAKING

In certain cases the Home Office may require that some senior person give an Undertaking that he will make himself responsible for the proper observance by the applicant of the provisions of the licence. This Undertaking is in set form, obtainable from the Home Office. (See Appendix I.)

As a general rule an Undertaking is required on behalf of all applicants from overseas. The Undertaking should normally be signed by the head of the department in which the applicant is to carry out his experiments, or by some senior person with whom he will be working.

8. ANNUAL RETURN OF EXPERIMENTS

About 15th December, the Home Office sends out a form for the Annual Return of Experiments. This form is in the main self-explanatory, but the following suggestions may help (in any case of doubt reference should be made to the Inspector):—

- (a) **One animal normally counts as one experiment.** Certain trivial procedures (under Certificate A) may leave the animal at the end of the experiment entirely normal ; if such an animal is subsequently used again then it is counted as another experiment.
- (b) An experiment starts at the first interference with the animal's health, comfort or integrity and ends on the death of the animal, or its complete recovery and return to stock (this can only happen in the case of experiments under Certificate A).
- (c) Where an experiment is carried out by more than one licensee, it must be shown in the annual return as a conjoint experiment ; unless, of course, the experiment was performed in the main by one licensee only, the others taking part in the capacity of assistants, in which case the experiment should be attributed to the principal licensee only.

APPENDIX I

39 & 40 VICT., CAP. 77

UNDERTAKING

WHEREAS.....

(Full name of applicant for licence in block letters)

proposes, if duly authorised by the Secretary of State, to carry out certain experiments on living animals under my supervision,

Now I.....

of.....

hereby undertake, in the event of a licence being granted:—

- (1) To explain the provisions of the Act to the licensee and to impress on him the importance of observing strictly the provisions of the Act and the terms and conditions of his licence ;
- (2) To see, to the best of my ability, that the provision of the Act and terms and conditions of the licence are so observed ;
- (3) To see that when he ceases to require the licence, and in any event before he leaves the country, he makes a Return (on the form used for the annual Return of Experiments) of every experiment he has carried out since the beginning of the year.*
- (4) Generally to make myself responsible for the due observance of the Act by the licensee, and to see that his record of experiments is kept correctly and up to date.

I understand that it will be made a condition of the licence, if granted, that all experiments shall be carried out under my supervision ; and I understand further that if the experiments are not conducted strictly in accordance with this Undertaking, the licence will be liable to revocation.

(Signature).....

Date.....

* The form for this purpose is sent to him with his licence.

APPENDIX II

ON PURCHASING DOGS AND CATS FROM DEALERS

The Dogs Act of 1906 prohibits the handing over by the police of stray dogs for use in laboratories. This ban does not apply legally to cats, but in effect stray cats are equally inaccessible. There is consequently an ever present danger that cats and dogs offered by dealers may be stolen animals, and laboratory workers are advised to take every precaution against being incriminated in this way. The practice in many laboratories is to require the dealer to sign a statement to the effect that the animal which he is selling is his own property ; the following is a suggested form of undertaking for such a guarantee:—

“ I certify that these..... are my own
property and have been obtained by legal means.

Signed.....”

If a further safeguard is thought necessary, the dealer may be asked to state the source of each animal.

Some dealers are none too careful about the way they confine or transport animals, and the animal protection societies are always on the look out for evidence of ill-treatment of animals on their way to the laboratories. This particularly applies to cats which have to travel over long distances, and in this connexion the Research Defence Society is informed that a pattern of travelling cat crate which is approved by the Royal Society for the Prevention of Cruelty to Animals is in the possession of the Laboratory Animals Bureau, Medical Research Council Laboratories, Holly Hill, Hampstead, London, N.W.3, from whom details may be obtained.

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